

## ***FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** July 13, 2016

**Agenda Item:** Clark Fork River Floodplain Closure Rule (Phase 5&6, Galen Road to Gem Back Road)

**Division:** Fisheries

**Action Needed:** Final

**Time Needed on Agenda for this Presentation:** 10 minutes

**Background** The Department of Environmental Quality (DEQ) and Natural Resource Damage Program (NRDP) are removing contaminated soils in the Upper Clark Fork River as part of a Superfund Site cleanup on the Clark Fork River. Work is being done in phases. This proposal concerns Phases 5 and 6 (Galen to Gem Back Road), currently under construction. For public safety, public access was already closed to the river and floodplain in these areas. Construction is scheduled to be completed in July 2016, and the current closure will expire on July 15, 2016. Re-vegetation of the Phase 5 and 6 areas began this spring. Plants are especially vulnerable to foot traffic in their first growing season. To allow plants to become established, it is beneficial to restrict foot traffic on the banks and floodplain for a couple additional years. With expiration of the current closure, DEQ proposed “float or wading only” use to prevent public access to the floodplain, thus protecting a \$13 million investment in these restoration efforts. The Commission approved this proposal for public comment at its May 12, 2016 meeting. The new biennial rule would be in effect from July 15, 2016 to September 15, 2018. To maximize public access as new plants become established, DEQ also proposed to sign areas at bridge locations where people could access the river with boats without affecting newly planted vegetation.

**Public Involvement Process & Results** Public comment on the proposed biennial rule was solicited between May 17 and June 17, 2016. We received three comments. The primary landowner is concerned that allowing wading will result in people accessing the banks and trampling vegetation. The landowner prefers float access only. Subsequent discussions with the landowner indicated that many sections of the river are too deep to wade most of the year, so people might inadvertently be compelled to access banks out of necessity in some areas to bypass deep water. Also, even at summer low flows, the Phase 5 and Phase 6 reaches cannot be safely waded entirely. FWP is also concerned that allowing wading would potentially require anglers to backtrack and interfere with other anglers. The remaining two comments were from DEQ and NRDP who concurred with the landowner preference for float access only.

### **Alternatives & Analysis**

1) Do not implement a rule: This decision allows access to the banks and floodplain: Vegetation goals would be threatened. 2) Allow wade and float through access: This decision technically protects the floodplain and its vegetation. In reality, anglers would likely access banks out of necessity to portage deep reaches, or in courtesy to other anglers. 3) Allow float only access: This rule would protect vegetation and provide fishing opportunity that is consistent with all restoration goals..

### **Agency Recommendation & Rationale**

FWP recommends that the Commission approve float only access from Galen to Gem Beck Road. The biennial rule would allow appropriate public access, while protecting new plant growth and habitat development.

### **Proposed Motion**

I move that the Commission approve a biennial rule allowing float only access between Galen and Gen Back road (Phase 5&6), except as signed, effective July 15, 2016 through September 15, 2018.